

REMARKS

The office action and reference cited and applied have been carefully considered together with the present application. Amendments have been made in an effort to place the application in condition for immediate allowance. Accordingly, reconsideration of the rejection of claims 1-23 is respectfully requested.

Claims 1-9 and 22-23 stand rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. With respect to claims 1-9, the Examiner asserts that the recited method/process must be 1) tied to another statutory class of invention or 2) transform underlying subject matter. Claim 1 has now been amended to recite, *inter alia*, “creating an information market having a plurality of participants, the information market being implemented on a computer system; [and] performing a query process with the probability bins as assets, wherein the computer system receives an input from the participant.” Support for implementing the information market on a computer system is provided in Applicant’s specification. (See Paragraphs 0027, 0060, and FIG. 8). As such, claim 1 is tied to a particular apparatus (i.e., a computer system) and therefore qualifies as statutory subject matter.

With respect to claims 22-23, the Examiner asserts that the claims effectively recite software per se. Per the Examiner’s suggestion, Applicant has amended claim 22 to recite a “computer program stored on a tangible computer-readable medium and configured for execution by a computer, comprising...” As

such, claims 22 and 23 qualify as statutory subject matter. Therefore, it is respectfully requested that the 35 U.S.C. §101 rejection of claims 1-9 and 22-23 be withdrawn.

Claims 1-6, 8-14, and 17-23 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Kaplan* (U.S. Pat. No. 7,155,510) in view of *Sarin, Rakesh K. An Approach for Long Term Forecasting with an Application to Solar Electric Energy* (1979). It is believed that these claims are not taught or suggested by these cited references.

Under the analysis required by *Graham v. John Deere*, 383 U.S. 1 (1966) to support a rejection under § 103, the scope and content of the prior art must first be determined, followed by an assessment of the differences between the prior art and the claim at issue in view of the ordinary skill in the art. In the present case, the scope and content of the prior art, as evidenced by *Kaplan* and *Sarin*, do not include the subject matter of claims 1-6, 8-14, and 17-23 as amended. Accordingly, Applicant respectfully requests reconsideration of the rejected claims.

Kaplan discloses a system and method of forecasting stock price information. The system first considers a participant's ability to forecast stock prices by using an algorithm that produces a weighing factor (Abstract, Col. 7, Lines 1-5). Next, the system requests participants to input a predicted closing stock price. These two pieces of data are combined using various algorithms to produce the forecasted data (Col. 7, Lines 33-27; Col. 8, Lines 9-15).

Kaplan does not however, disclose “performing a query process with the probability bins as assets” as recited in amended claim 1 (emphasis added). Indeed, the input received by the participants in *Kaplan* reflects an estimated stock price. In the present invention, the *probability bins* are the assets on which the participants are queried, not the stock price (or any type of outcome). These two approaches are separate and distinct. Indeed, in *Kaplan*, the participant is required to enter a specific expected outcome (i.e., the future stock price). To the contrary, in the present invention, the participant is requested to input a probability for a specified outcome. For example, the participant will enter the probability that a stock will reach a certain price. Such a technique provides for greater flexibility in the query process. For example, the participant could “vote” as to the probability that a plurality of (possibly complex) conditions will be met, instead of merely predicting a single stock price at a given time.

Applicant notes that this “query process” feature was one of the primary issues raised in Applicant’s Appeal brief filed September 23, 2008, in which Applicant distinguished the claimed feature from a disclosure in *Geiger* (U.S. Pat. No. 6,236,900). *Geiger* disclosed a system which requested input from a user corresponding to an *outcome* (not a probability bin) as an asset. An example provided in *Geiger* (and cited by the Examiner), described a participant who would enter an expected winner in a football game. This is analogous to selecting an expected stock price. Indeed, both are providing input regarding an expected outcome. However, as

argued in Applicant's appeal, predicting an outcome is separate and distinct from predicting the probability of an outcome. Like *Geiger, Kaplan* fails to disclose the query process feature as recited in claim 1. Further this feature is also recited in claims 10, 19, and 22. Therefore, it is respectfully requested that the 35 U.S.C. §103(a) rejection of these claims and their corresponding dependent claims be withdrawn.

Claims 6-7 and 15-16 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Kaplan* in view of *Sarin* and in further view of *Pennock et al.*, *The Power of Play* (2001). Since these claims depend from claims 1 and 10, which are now believed to be in allowable form, it respectfully requested that the rejection of the corresponding dependant claims also be withdrawn.

Finally, Applicant introduces new claim 24, which recites "[t]he method of claim 1, further comprising: providing a reward to the participant based on an accuracy of the result of the query process as compared to a corresponding actual asset." Support for this claim is provided in Paragraph 0021 of Applicant's Specification. Applicant notes that *Kaplan*, *Sarin*, and *Pennock* fails to teach or suggest anything related to incentivizing accurate predictions by providing rewards. Accordingly, Applicant respectfully requests that the Examiner place the Application in condition for allowance. Should the Examiner discover there are remaining issues

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which may be resolved by a telephone interview, he is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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